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July 12, 2010

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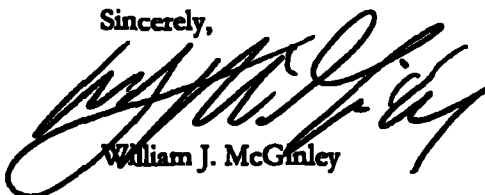
Re: MUR 6294  
Americans for Job Security

Dear Mr. Jordan:

Please find attached the response of our client, Americans for Job Security, to the complaint filed against it in the above-referenced matter.

Please do not hesitate to contact us with any questions.

Sincerely,



William J. McGinley

Attachment

**BEFORE THE FEDERAL ELECTION COMMISSION**

**In the Matter of  
Americans for Job Security**

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**MUR 6294**

**RESPONSE OF AMERICANS FOR JOB SECURITY  
TO THE COMPLAINT ASSIGNED MUR 6294**

**INTRODUCTION**

By its own admission, the Complaint in this matter concedes that AJS complied with the electioneering communications ("EC") reporting requirements at issue by filing FEC Form 9 with the Commission in a timely manner. *See* Complaint at 2. Moreover, the Complaint does not allege any facts or cite to any evidence supporting the erroneous claims that AJS violated the Federal Election Campaign Act of 1971, as amended (the "Act"), and Commission regulations. Finally, the Complaint is based on a misstatement of the current law in an effort to score political points. For these reasons, the Complaint must be dismissed for failure to allege sufficient facts to support its erroneous claim.

**LEGAL ANALYSIS**

Contrary to the Complaint's arguments, the United States Supreme Court's decision in *Citizens United v. FEC* did not establish new reporting requirements for organizations sponsoring issue advocacy advertisements in close proximity to federal elections. Rather, the Supreme Court upheld the existing reporting requirements under the Act and Commission regulations.

Initially, the Complaint misstates Commission regulations defining "permissible electioneering communications." *See* 11 C.F.R. § 114.15; 72 Fed. Reg. 72889, 72904 (2007). Commission regulations do not restrict "permissible electioneering communications" to advertisements that only discuss public policy positions in connection with incumbent



party, opposing candidate, or voting by the general public. *See* 11 C.F.R. § 114.15(B)(1). The advertisement uses Mr. Halter's experience as the director of a company that outsourced jobs to India as a vehicle to highlight the issue of the economy and outsourcing of American jobs overseas. This discussion does not constitute a position on Mr. Halter's character, qualifications, or fitness for office. The advertisement concludes with a non-electoral call to action by asking the viewers to call Mr. Halter and ask him to support jobs in Arkansas, not in India. *See id.* at §§ 114.15(c)(2)(i) & (ii). Therefore, the AJS advertisement at issue has an interpretation other than an appeal to vote for or against a federal candidate and qualifies as a "permissible electioneering communication." *See FEC v. Wisconsin Right to Life, Inc.*, 551 U.S. 449, 474 (2007) ("Where the First Amendment is implicated, the tie goes to the speaker, not the censor."); 11 CFR § 114.15(c)(3) ("In interpreting a communication under paragraph (a) of this section, any doubt will be resolved in favor of permitting the communication.").

With respect to the Complainant's gripes with AJS's disclosure, Commission regulations contain an explicit exception to the EC donor disclosure requirements. Specifically, if an organization does not solicit donations for the specific purpose of furthering the EC, or if the donor did not send funds to the organization for the specific purpose of furthering the EC, the donors are not required to be disclosed on Form 9. *See* 11 C.F.R. § 104.20(c)(9). AJS accepts dues from its members that support the general purposes of the organization. It does not accept donations for a particular purpose.

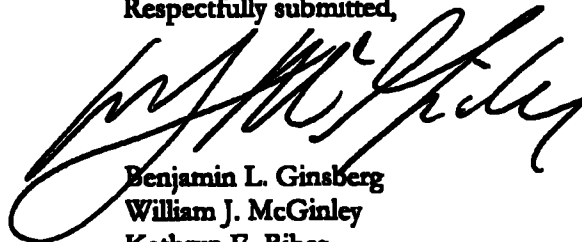
Finally, the Complaint's attacks on the Commission's EC disclosure regulations and their statutory basis is irrelevant. The Complaint does not contain any factual allegation that AJS violated the Commission's EC reporting regulations, nor does it include even a scintilla of evidence supporting such an erroneous claim. The burden does not shift to AJS to prove its innocence in this matter simply because the Halter campaign filed a Complaint. *See*

Commissioners Wold, Mason, Thomas, Statement of Reasons, MUR 4850 ("A mere conclusory accusation without any supporting evidence does not shift the burden of proof to respondents. . . . The burden of proof does not shift to a respondent merely because a complaint is filed."); Commissioners Mason, Sandstrom, McDonald, Smith, Thomas, Wold, Statement of Reasons, MUR 5141 ("A complainant's unwarranted legal conclusions from asserted facts, will not be accepted as true.").

### CONCLUSION

For the reasons stated above, the Commission must find no reason to believe that AJS violated the Act and Commission regulations, dismiss this matter, and close the file.

Respectfully submitted,



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